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II. Executive summary

Sri Lanka

1. Introduction: overview of the legal and institutional framework of Sri Lanka in the context of implementation of the United Nations Convention against Corruption

Sri Lanka signed the Convention on 15 March 2004 and ratified it on 31 March 2004. The Convention entered into force for Sri Lanka on 14 December 2005.

The country's implementation of chapters III and IV of the Convention was reviewed during the third year of the first cycle (CAC/COSP/IRG/I/3/1/Add.20).

Sri Lanka has a mixed legal system of Roman Dutch civil law and English common law, and applies the dualist system for the implementation of international treaties. The nineteenth amendment to the Constitution, of May 2015, provides for the establishment of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and empowers it to implement the Convention, thus giving the treaty constitutional recognition.

Sri Lanka is a member of the Asia/Pacific Group on Money Laundering (APG) and the Egmont Group of Financial Intelligence Units.

The most important institutions in the fight against corruption are CIABOC, the Financial Crimes Investigation Division of the Sri Lanka Police, the Attorney General's Department, Financial Intelligence Unit of Sri Lanka, the Public Service Commission, the National Procurement Commission, the Auditor General and the Special Presidential Task Force for Recovery of Illegally Acquired State Assets.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

What Sri Lanka has adopted is not a single anti-corruption strategy, but consists of several significant steps and measures to prevent corruption. The directive principles of State policy and fundamental duties stated in chapter VI of the Constitution contain a call for integrity and the prevention of corruption in government. The 2007 national anti-corruption action plan includes measurable and time-bound actions; however, it has never been systematically implemented or updated. In 2015, CIABOC adopted an anti-corruption strategy entitled "Seven steps to zero tolerance" to guide its work in the areas of enforcement and prevention, together with a three-year implementation plan. The CIABOC strategy provides for the nomination of integrity officers in public institutions, increased transparency of public services and strengthened partnership with civil society. Its implementation is still ongoing, in particular with regard to strengthening the prevention functions of CIABOC. The strategy has been incorporated into the 2015–2017 national action plan for the Open Government Partnership. At the time of the review, efforts were under way to adopt a comprehensive national anti-corruption strategy.

CIABOC, as the main anti-corruption body and designated authority under article 6, paragraph 3, of the Convention, is headed by three commissioners and a director general. The commissioners are appointed by the President upon recommendation of the Constitutional Council for a non-renewable five-year period, and can be removed only with Parliament's approval. The appointment, tenure and removal of the director general are solely in the hands of the President and no rules are in place regarding disciplinary matters; however, the appointment is made in consultation with the commissioners and any presidential decision can be subject to subsequent judicial review (art. 126 of the Constitution). The independence of CIABOC is enshrined in

the nineteenth amendment to the Constitution and the provisions on appointment, tenure and removal of CIABOC commissioners (sect. 2, CIABOC Act).

Among other work, CIABOC operates a reporting mechanism for citizens and organizes ad hoc training and awareness-raising activities. With a view to adopting a more structured approach to corruption prevention, CIABOC has taken steps towards the establishment of a dedicated prevention unit.

The Law Commission of the Ministry of Justice periodically reviews the country's laws, and, to date, has proposed several amendments to the Bribery Act, the Prevention of Money-Laundering Act and the Mutual Assistance in Criminal Matters Act. In addition, CIABOC and relevant ministries and institutions have initiated legislative amendments to the Declaration of Assets and Liabilities Act, the CIABOC Act, the Commission of Inquires Act, the Judicature Act, the Mutual Assistance in Criminal Matters Act and the Right to Information Act.

Sri Lanka participates in several regional and international fora, including the Anti-Corruption Initiative for Asia and the Pacific of the Asian Development Bank and the Organization for Economic Cooperation and Development, and the South Asian Association for Regional Cooperation. Sri Lanka is a member of the Commonwealth, the International Criminal Police Organization (INTERPOL), the Open Government Partnership, the Forum of Election Management Bodies of South Asia, and the Asset Recovery Inter Agency Network for Asia and the Pacific.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The appointment, transfer, disciplinary control and dismissal of public officials falls within the purview of the Public Service Commission (Constitution, arts. 54 and 55) and can be further delegated to designated public officials or committees (Constitution, arts. 56 and 57).

The Procedural Rules on the Appointment, Promotion and Transfer of Public Officers and the Establishments Code set out rules for recruitment, appointment, remuneration, promotion, termination, resignation, and general duties and rights of public officials. Vacancy announcements are published in the Gazette of the Democratic Socialist Republic of Sri Lanka, newspapers and on the Internet. The selection of candidates is based on written exams and interviews. All appointments are made in accordance with service minutes and schemes of recruitment developed for each post by Government departments and approved by the Public Service Commission (chap. IV of the Procedural Rules, chap. II of the Establishments Code). On appointment, public officials take an oath of office (sect. 85 of the Procedural Rules). A system of rotation of public officials is in place (chap. XVIII of the Procedural Rules). Complaints regarding the recruitment process, disciplinary action or any other grievances may be lodged with the Public Service Commission or the Administrative Appeals Tribunal (arts. 58 and 59 of the Constitution, chap. XX of the Procedural Rules), subject to judicial review under articles 138 and 126 of the Constitution.

The Establishments Code sets out rules relating to public officials' conduct and discipline (chaps. 47 and 48). Public officials may not accept secondary employment, but derogations may be granted by way of exception (chap. 30). No cooling-off period is in place for public officials moving to the private sector. While the Code requires public officials to avoid conflicts of interest (chaps. 29 and 30), it does not comprehensively outline obligations and procedures in that regard. Gifts are generally prohibited, but courtesy gifts of a value less than LKR 5,000 (about USD 30) may be permissible if reported to the Secretary of the Ministry of Foreign Affairs (chap. 47). Chapter 48 regulates disciplinary procedures and sets out sanctions for non-compliance with the Code, which include reprimands, disciplinary transfers, reductions in rank or salary, and dismissal. Sri Lanka does not define any public positions as particularly vulnerable to corruption.

No specific duty to report corruption exists for public officials. Although officials can use the CIABOC reporting mechanism, they are often reluctant to do so for fear that that would conflict with their confidentiality obligations.

Members of Parliament, judges, public officials of Government departments, ministries, and local authorities, chairpersons and staff of public corporations, candidates for elected public office and elected officials are required to declare their assets and liabilities and those of their family members (Declaration of Assets and Liabilities Act, sects. 2 and 3). Declarations must be submitted within three months after appointment and annually thereafter (sect. 3 of the Act, art. 87 of the Procedural Rules). Failure to declare, and any false statements or omissions, result in prosecution or disciplinary action (sect. 9 of the Act, chap. 29 of the Establishments Code). Declarations are entrusted to the heads of the respective offices for safekeeping and may be requested by an investigative body for inspection. No formal monitoring or verification system is in place. CIABOC has proposed several amendments to the Declaration of Assets and Liabilities Act to address its existing limitations. Declarations are available to the public for a fee (sect. 5, subsect. 3, of the Act).

General criteria concerning candidature for and election to public office are stipulated in the Constitution (chap. XIV). Detailed criteria are set out in special legislation such as the Presidential Elections Act, the Parliamentary Elections Act, the Provincial Elections Act, the Referendum Act and the Local Authorities Elections Ordinance. While office holders of recognized political parties and candidates nominated for elections must declare their assets (sects. 2–4 of the Act), non-compliance is not a hindrance to election. A public official who seeks election as a member of Parliament must resign from public service (chaps. 32 and 47 of the Establishments Code).

No law is in place regarding funding of candidates for elected public office or of political parties, and discussions on the adoption of such legislation are under way. The Parliamentary Elections Act provides for public subsidies of recognized political parties for general elections (sect. 127).

Independence of the judiciary is guaranteed in the Constitution (chap. XV) and interference with the judiciary is a punishable offence (art. 111C). Judges of the Supreme Court and the Court of Appeal are appointed by the President subject to the approval of the Constitutional Council and can only be removed by order of the President with the support of the majority of the Parliament on grounds of proved misconduct or incapacity (art. 107). However, only serious violations may trigger impeachment and ordinary, less serious disciplinary violations are not subject to any disciplinary action and sanctions. A proposed amendment to the Constitution would introduce a new procedure to address non-impeachable misconduct. Judges of the High Court are appointed by the President on the recommendation of the Judicial Service Commission (art. 111). The Judicial Service Commission is vested with authority over the appointment, transfer, dismissal and disciplinary control of judges in the High Court and lower courts and scheduled public officials (art. 111H). The Judicial Service Commission Rules and the Commission's circulars, the Establishments Code, the Supreme Court Rules and the Court of Appeal Rules govern the conduct of judges. Sri Lanka is in the process of developing a comprehensive judicial code of conduct. The Judicial Service Commission, through the Judges Institute, provides training to judges aimed at strengthening their integrity.

The Attorney General is appointed by the President, subject to the approval of the Constitutional Council. In line with the Removal of Officers (Procedure) Act, the Attorney General can only be removed by Parliament on specific grounds after inquiry. Prosecutors are considered public officials and therefore must comply with the Establishments Code, the Procedural Rules and the rules of conduct and etiquette governing all attorneys as regulated by the Supreme Court. Disciplinary matters concerning officers of the Attorney General's Department are handled by the Public Service Commission.

Public procurement and management of public finances (art. 9)

Sri Lanka applies a decentralized procurement system, where the responsibility of procurement actions is vested with secretaries of respective line ministries. The National Procurement Commission formulates procurement procedures and guidelines and monitors their implementation (chap. XIXB of the Constitution). All government procurement must be carried out in line with the *Procurement Guidelines 2006: Goods and Works*, which set out various procurement methods (chap. 3), procurement preparedness and planning rules (chap. 4), bidding procedures (chaps. 5–7) and rules for awarding contracts (chap. 8), as well as with the *Guide to Project Management and Contract Management for Infrastructure Development Projects (Works)* of 2017. In addition, the *Procurement Manual* of 2006 provides detailed rules on various aspects of public procurement. Complaints can be lodged with the National Procurement Commission, the Procurement Appeals Board or the Supreme Court. At the time of the review, both the *Guidelines* and the *Manual* were being revised by the Commission to fully comply with international standards. The Commission, the Sri Lanka Institute of Development Administration and the Miloda Academy of Financial Studies provide training to procurement officials.

Chapter XVII of the Constitution deals with the management of public finances, including the adoption of the national budget. While Parliament has full control over public finances (art. 148 of the Constitution), the Department of National Budget of the Ministry of Finance formulates the national budget, including preparing budget estimates and a three-year budgetary framework. It also monitors budgetary expenditure, including allocation of financial resources for public programmes and projects, assisting the implementation of the national budget and monitoring the implementation of budgetary provisions. The Fiscal Management (Responsibility) Act regulates the reporting on revenue and expenditure by public bodies and requires the Ministry of Finance to prepare regular budget position reports (sects. 10–15). The Audit Service Commission, consisting of the Auditor General and four other members, overlooks the compliance by public authorities with the Accounting and Auditing Standards Act. The Financial Regulations and the Treasury Circulars issued by the Ministry of Finance lay out the rules regarding the preservation of accounting books, financial statements and public records. Ministries, departments institutional bodies, non-revenue-earning statutory bodies and public enterprises are required to report in accordance with these regulations and are audited by the Auditor General. Forgery or falsification of public accounts is a criminal offence (sects. 452 and 453 of the Penal Code; sect. 5, subsect. 2 of the Offences against Public Property Act).

Public reporting; participation of society (arts. 10 and 13)

The Constitution guarantees the right of access to information (art. 14A). Any violations can be reported to the Ombudsman and the Human Rights Commission.

In 2017, following consultations with the civil society lasting several years, Sri Lanka adopted the Right to Information Act to comprehensively regulate access to information. The Act came into force on 4 February 2017, but its provisions were not fully implemented at the time of the review. Among other things, the Act describes procedures for obtaining information (sects. 24–30), grounds for denial of access (sects. 5 and 35) and duties of public bodies to maintain records (sect. 7). It also requires public authorities to appoint dedicated information officers and appeal officers (sects. 23 and 31). The Right to Information Commission monitors public bodies' compliance, issues guidelines and serves as a second instance body for appeals (sects. 14, 15, and 31–34).

Most government departments maintain their own websites, and Sri Lanka aims to build an e-government system to provide public services electronically. CIABOC is in the process of developing citizens' charters for local government and public administration to provide citizens with detailed information on existing public services, including their costs and the time frames for their execution.

Anyone can report corruption incidents to CIABOC in person, through the general post, through a dedicated hotline and by email. The CIABOC Act provides immunity from civil and criminal liability to such persons (sect. 9). The Assistance to and Protection of Victims of Crime and Witnesses Act further provides for the protection of reporting persons against any form of harassment at work.

CIABOC cooperates with civil society through various activities. Civil society has been consulted in drafting laws as a matter of practice, as was the case with the Declaration of Assets and Liabilities Act, the Audit Act and the Right to Information Act.

CIABOC works with the Ministry of Education and the National Institute of Education to incorporate the fight against corruption into school curricula, and is developing regulations to curb corruption in school administrations, as well as creative competitions and school integrity clubs.

Private sector (art. 12)

Measures pertaining to record-keeping, preparation of financial statements, accounting and auditing in the private sector are prescribed in the Accounting and Auditing Standards Act, the Companies Act, the Securities and Exchange Commission Act, the Monetary Law Act, the Banking Act, the Insurance Act and the Finance Companies Act.

The Accounting and Auditing Standards Act is applicable to "specified business enterprises" (sect. 5 and the schedule of the Act), which currently comprise 1,410 enterprises, including private companies and banks. Business enterprises are required to audit their accounts (sect. 6) and non-compliance is punishable (sects. 6, 7 and 27). The Institute of Chartered Accountants of Sri Lanka has adopted the Accounting and Auditing Standards in accordance with the Accounting and Auditing Standards Act (sects. 2 and 3) and to comply with international standards. The Accounting and Auditing Standards Monitoring Board monitors compliance with the Act and the Standards and refers suspected cases of corruption to law enforcement authorities. The Accounting Standards Committee and the Auditing Standards Committee make recommendations relating to the Standards (sects. 8 and 9).

All companies formed under the Companies Act are obliged to keep correct accounting records (sect. 148), prepare financial statements (sects. 150–153) and appoint an auditor (sects. 154–160). Company records are to be kept available for public inspection (sect. 120). Measures and penalties for non-compliance are set out in part XXI.

Under to the Accounting and Auditing Standards Act, audits of specified business enterprises must be carried out by members of the Institute of Chartered Accountants. In line with the Companies Act, audits of other entities can be carried out by auditors registered with the Company Registrar.

In order to promote the use of good commercial practices, the Institute of Chartered Accountants, the Chamber of Commerce and other associations conduct annual competitions on corporate reporting and corporate best practices. Codes of corporate governance have been adopted for licensed banks and finance companies.

No special whistle-blowing mechanism exists for the private sector.

Tax deductibility of expenses that constitute bribes is prohibited (sects. 10–19 of the Inland Revenue Act, No. 24 of 2017).

Measures to prevent money-laundering (art. 14)

As a member of the APG, Sri Lanka is bound by the Financial Action Task Force recommendations and subject to its evaluations.

The domestic legal regime against money-laundering includes the Prevention of Money-Laundering Act, the Financial Transactions Reporting Act and the Convention on the Suppression of Terrorist Financing Act. Offences under the Bribery Act and

other corruption-related offences under the Penal Code are considered predicate offences for the purposes of the Prevention of Money-Laundering Act and the Financial Transactions Reporting Act (see the definition of the term "unlawful activity" in those two acts). Therefore, money obtained through corruption comes within the ambit of the Financial Intelligence Unit.

All institutions carrying out finance business or designated non-finance business, as defined in section 33 of the Financial Transactions Reporting Act, are required to comply with that Act, including its provisions regarding verification of customers' identity, maintenance of records and due diligence. Those institutions are required to file suspicious transaction reports with the Financial Intelligence Unit in accordance with the Act. The Financial Intelligence Unit supervises institutions' compliance with the Act, including through on-site inspections, imposes administrative penalties, issues directives and refers matters to the courts. Existing sectoral bank and non-bank supervision departments and the Exchange Control Department of the Central Bank of Sri Lanka also play a supervisory role.

The Financial Transactions Reporting Act sets out the powers of the Financial Intelligence Unit to transmit information to domestic law enforcement authorities, including CIABOC (sect. 15) and foreign institutions (sects. 15–17). The Financial Intelligence Unit is a member of the Egmont Group and has concluded memorandums of understanding with 34 foreign counterparts. The authorities of Sri Lanka cooperate through various platforms, including INTERPOL, the South Asian Association for Regional Cooperation and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation.

Regulations are in place requiring financial institutions, including money remitters and their agents, to obtain and maintain information on the originator of funds transfers and to monitor transactions that are accompanied by insufficient information.

Sri Lanka has a disclosure-based regime to monitor the movement of currency and bearer-negotiable instruments across its borders (sects. 24–27). Under the Foreign Exchange Act Regulations of 2017, cross-border transfers exceeding $15,000 ($10,000 if outgoing) are subject to mandatory declaration. Any cash and negotiable instruments imported into or exported from Sri Lanka may be seized or detained if there is a suspicion that they have been derived from, or are intended for use in, the commission of an unlawful activity (sects. 24 and 25).

2.2. Successes and good practices

- Measures to promote the participation of society, including through the Open Government Partnership and National Anti-Corruption Action Plan (arts. 5 and 13).
- Introduction of cyberkiosks throughout the country to facilitate electronic access to public services (art. 10 (a)).
- The ongoing activities of CIABOC in the area of education, including school integrity clubs, dedicated syllabuses and competitions (art. 13 (1) (c)).

2.3. Challenges in implementation

It is recommended that Sri Lanka:

- Implement an effective, coordinated anti-corruption policy with clearly stated goals, means to achieve them, responsible bodies and coordination (art. 5 (1) of the Convention).
- Continue efforts to adopt a more structured approach towards the prevention work of CIABOC, including through the establishment and effective functioning of a dedicated prevention unit (art. 5 (2) and art. 6 (1)).
- Enhance the independence and effectiveness of CIABOC, including by adopting clear rules on the Director General's tenure and removal, specifying the

procedure for disciplinary control over the Director General, providing CIABOC with sufficient material resources and providing specialized training for staff and exercising administrative and disciplinary control over its officers (art. 6 (2)).

- Consider identifying positions in the public sector that are especially vulnerable to corruption and adopting adequate procedures for the selection and training of public officials holding such positions (art. 7 (1) (b)).
- Consider adopting a comprehensive law on the funding of candidates for elected public office and of political parties (art. 7 (3)).
- Strengthen measures to prevent and detect conflicts of interest, including by adopting clear rules on what constitutes a conflict of interest, and penalties for non-compliance, creating a monitoring mechanism and providing training to public officials (art. 7 (4), art. 8 (5)).
- Strengthen the application of the Establishments Code, including by providing training to public officials, and consider reviewing and modernizing the Code taking into account international good practices (art. 8 (1)–(3)).
- Strengthen measures to facilitate the reporting by public officials of corruption, including by providing guidance to public officials and ensuring confidentiality (art. 8 (4)).
- Reform and strengthen the asset declaration system in line with the amendments proposed by CIABOC, including by assessing the possibility of introducing effective monitoring and verification, considering the adoption of electronic filing systems, permitting competent authorities to share information with foreign counterparts, and effectively applying deterrent penalties for non-compliance, also to heads of offices who do not observe the Declaration of Assets and Liabilities Act and to elected officials; and consider expanding the scope of declarations to include potential conflicts of interest (art. 8 (5), art. 52 (5)).
- Consider strengthening the measures concerning gifts, secondary employment and outside activities of public officials with a view to providing clear duties and rules for compliance (art. 8 (5)).
- Ensure that the sanctions set out in the Establishments Code are effectively applied in practice (art. 8 (6)).
- For the sake of institutional clarity, formally abolish the National Procurement Agency, which is no longer operational and has been replaced by the National Procurement Commission (art. 9 (1)).
- Continue efforts to amend the *Procurement Guidelines 2006: Goods and Works* and the *Procurement Manual* of 2006 in line with the Convention and consider introducing screening procedures and more structured training for procurement officials (art. 9 (1)).
- Fully operationalize the Right to Information Act, including through the designation and training of information officers and raising awareness among public officials and the public (art. 10 (a)).
- Consider publishing periodic reports assessing the risks of corruption in public administration (art. 10 (c)).
- Continue to strengthen judicial integrity, including by adopting rules on disciplinary violations committed by judges of the Supreme Court and the Court of Appeal and adopting a code of judicial conduct (art. 11 (1)).
- Consider adopting a code of conduct for prosecutors and ensure that sufficient training is available to prosecutors (art. 11 (2)).
- Take further measures to prevent corruption in the private sector, including by strengthening procedures regarding subsidies and licenses, consider imposing

restrictions on activities open to former public officials, developing standards of conduct for the private sector and effectively identifying the identity of persons involved in the establishment and management of businesses (art. 12 (1) and (2)).

- Consider the possibility of regulating in law the current practice of publishing draft legislation to allow the public to express its views (art. 13 (1) (a)).
- Continue taking measures to encourage the public to report instances of corruption, including through the full implementation of the Assistance to and Protection of Victims of Crime and Witnesses Act and the envisaged adoption of a national policy on whistle-blowing (art. 13 (2)).
- Continue to strengthen the implementation of a comprehensive risk-based approach to the fight against money-laundering (art. 14).
- Strengthen the ability of the Financial Intelligence Unit of Sri Lanka to exchange information at the international level and provide it with sufficient resources to carry out its supervisory functions (art. 14 (1) (b)).
- Strengthen the monitoring and implementation of measures requiring financial institutions, including money remitters, to identify and scrutinize funds transfers (art. 14 (3)).
- Continue efforts to address the remaining issues of the Financial Action Task Force evaluation, including in the areas of customer due diligence, wire transfers, money value transfer services and internal controls (art. 14 (4), art. 52).

2.4. Technical assistance needs identified to improve implementation of the Convention

- Legislative assistance (arts. 7, 8 and 9);
- Institution-building (arts. 7 and 12);
- Policymaking (art. 7);
- Capacity-building (arts. 7, 8, 10, 12, 13 and 14); and
- Research/data-gathering and analysis (art. 7).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Sri Lanka relies on the Prevention of Money Laundering Act, the Mutual Assistance in Criminal Matters Act and the Criminal Procedure Code for the confiscation and recovery of the proceeds of crime. Steps towards the adoption of proceeds of crime legislation were under way at the time of the review.

Mutual legal assistance in criminal matters, including asset recovery, may be provided to requesting States designated as "specified countries" by ministerial order. Such ministerial orders can be issued for Commonwealth countries, or any non-Commonwealth country if it has entered into a mutual legal assistance agreement with Sir Lanka (sect. 17 of the Mutual Assistance in Criminal Matters Act). At the time of the review, there were eight such countries, six of which had signed treaties with Sri Lanka containing asset recovery provisions. Although mutual legal assistance can also be provided to other countries on a case-by-case basis using reciprocity or ad hoc agreements, in practice, the need for a ministerial order presents significant challenges. The Convention's provisions are not directly applicable.

Sri Lanka spontaneously transmits information based on reciprocity, in particular in connection with the Prevention of Money Laundering Act offences as that Act explicitly obliges the Government to assist other States without a prior request

(sect. 32). As a member of the Egmont Group, the Financial Intelligence Unit transmits relevant information to foreign counterparts. Sri Lanka also cooperates through the Asset Recovery Inter-Agency Network for Asia and the Pacific and the Global Focal Point Network on Asset Recovery of INTERPOL and the joint United Nations Office on Drugs and Crime/World Bank Stolen Asset Recovery (StAR) Initiative.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The Financial Intelligence Unit, established in 2006 as part of the Central Bank, is the main authority supervising suspicious financial transactions. The Unit is a hybrid body analysing cases and referring suspicious transactions to law enforcement authorities. Its powers and functions are set out in the Financial Transactions Reporting Act (part III).

The Financial Institutions (Customer Due Diligence) Rules of 2016, issued by the Financial Intelligence Unit, apply to all financial institutions as defined in the Financial Transactions Reporting Act. The Rules set out obligations with regard to money-laundering risk management and internal controls, know-your-customer standards, customer due diligence, enhanced scrutiny for persons and accounts, correspondent banking, wire transfers and record-keeping. Staff of financial institutions are trained by their employers and by the Financial Intelligence Unit.

Under the Rules, financial institutions are required to identify and verify the identity of beneficial owners of all accounts (rules 30 and 31). Enhanced scrutiny of both domestic and foreign politically exposed persons, their family members and close associates, is required (rules 59 and 60). Pursuant to the Financial Transactions Reporting Act, the Financial Intelligence Unit issued the Guidelines for Financial Institutions on Identification of Beneficial Ownership, No. 04 of 2018. No centralized bank register is in place.

The Banking Act prohibits banks with no physical presence in Sri Lanka (sect. 2, subsect. (1)). Financial institutions are prohibited from entering into business relations with them and from providing correspondent banking services to financial institutions that permit their accounts to be used by shell banks (rule 67, Financial Institutions (Customer Due Diligence) Rules).

Financial institutions are required to maintain records of transactions, both domestic and international, as well as customer due diligence and know-your-customer records, for a minimum of six years from completion of the transactions or the date on which the business relationship was fulfilled (rules 89–91). All records must be immediately available to the Financial Intelligence Unit and other relevant national authorities (rule 94).

The Declaration of Assets and Liabilities Act requires public officials to declare their assets and liabilities inside and outside Sri Lanka. There are limited resources to monitor and verify their declarations, address non-compliance and raise awareness.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

While no provision prohibits foreign countries from participating in the country's court proceedings and initiating civil action to establish ownership of property or seek compensation, this has never happened in practice.

Confiscation of the proceeds of corruption is limited to the proceeds of money-laundering and bribery (sect. 26A, 28A, subsect. (1) and sect. 39 of the Bribery Act, and sects. 3 and 13 of the Prevention of Money Laundering Act). Freezing is not regulated, although Sri Lanka explained that section 124 of the Criminal Procedure Code on the assistance of magistrates in investigations could be applied.

Sections 15 and 19 of the Mutual Assistance in Criminal Matters Act authorize the central authority, namely the Ministry of Justice, to give effect to search, seizure and confiscation orders issued by courts in specified countries, and section 17 authorizes the central authority to assist specified countries in tracing proceeds of crime. No requests for asset confiscation under section 19 of Mutual Assistance in Criminal Matters Act had been received by Sri Lanka at the time of the country visit.

Section 13 of the Prevention of Money Laundering Act empowers the courts to issue confiscation orders for movable or immovable property derived or realized from unlawful activity. However, there have been no cases in which section 13 was applied to property of foreign origin. Non-conviction-based confiscation is not possible.

The Mutual Assistance in Criminal Matters Act provides for a partial preservation of property for confiscation (sect. 15, subsects. 9 and 10). The envisaged proceeds of crime legislation will convert the Special Presidential Task Force on Recovery of State Assets to a statutory body with a mandate to manage proceeds of crime.

The Mutual Assistance in Criminal Matters Act specifies requirements for requests for mutual legal assistance and grounds for refusal (sects. 5 and 6). Sri Lanka does not apply any *de minimis* threshold for assistance (sect. 6). Before lifting any provisional measure, consultations with requesting States are a standard practice.

Return and disposal of assets (art. 57)

The central authority, in consultation with the Minister of Finance, may order either the whole or any part or value of confiscated property to be given to a requesting State where deemed appropriate in the interests of comity or based on an international arrangement (sect. 22 of the Prevention of Money Laundering Act). The central authority may specify suitable steps to give effect to a request, which include disposal of confiscated property as the central authority may specify (sect. 19, subsect. 7 of the Mutual Assistance in Criminal Matters Act). These provisions do not establish an obligation to return and dispose of assets in accordance with the Convention.

3.2. Successes and good practices

- The Special Presidential Task Force on Recovery of State Assets, established to coordinate efforts to investigate, identify, trace, seize and transfer State assets and revenue (art. 51).
- The provision of sample forms for requests for mutual legal assistance (art. 51).

3.3. Challenges in implementation

It is recommended that Sri Lanka:

- Continue to strengthen international cooperation mechanisms as a basis for asset recovery by addressing the limitations on mutual legal assistance in line with the findings of the country's first-cycle country review report and the results of the 2015 APG review, enhance data collection mechanisms and expedite the adoption of proceeds of crime legislation (arts. 51 and 54).
- Take measures to allow for the provision of assistance and the enforcement of foreign confiscation, freezing and seizing orders from non-specified countries (arts. 51and 54).
- Introduce a system to notify financial institutions of the identity of particular persons to whose accounts enhanced scrutiny should be applied (art. 52 (2) (b)).
- Consider extending the six-year period for maintenance of records, which has been identified as a potential obstacle to successful investigations (art. 52 (3)).
- Address the recommendation referred to under 2.3, ninth bullet point (art. 8 (5) and art. 52 (5)).

- Consider requiring public officials to declare foreign financial accounts, to maintain appropriate records related to such accounts and providing for appropriate sanctions for non-compliance (art. 52 (6)).
- Ensure that measures for direct recovery, as outlined in art. 53 of the Convention, are available to other States (art. 53 (a)–(c)).
- Adopt measures to authorize freezing, seizure and confiscation of proceeds derived from all Convention offences, as recommended in the first-cycle review, including by adopting a proceeds of crime law, and ensure that such measures may be taken for purposes of international cooperation (art. 54 (1) (a), (2)).
- Consider introducing non-conviction-based confiscation (art. 54 (1) (c)).
- Strengthen measures to preserve property for confiscation and continue efforts to designate a central asset management authority as recommended in the first-cycle review (art. 54 (2) (c)).
- Ensure that non-coercive mutual legal assistance may be provided to all States parties and consider using the Convention as a legal basis in that regard (art. 55 (6)).
- Continue to ensure that consultations with requesting States are carried out before lifting any provisional measures (art. 55 (8)).
- Take measures to enable the central authority to return confiscated property to its prior legitimate owners (art. 57 (1) (2)).
- Take legislative and other measures to ensure the return of property as specified in article 57 (3) of the Convention.
- Clarify the matter of costs in the context of ongoing revision of the legislation (art. 57 (4)).
- Provide sufficient resources to the Financial Intelligence Unit of Sri Lanka to effectively carry out its supervisory and analytical functions (art. 58).
- Consider concluding bilateral or multilateral agreements or arrangements to address the requirements of chapter V of the Convention (art. 59).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Legislative assistance (arts. 52–54).

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